

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16713 of 2019

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Santosh Kumar Jha Son of Hare Ram Jha, Resident of Village and Post-Madhupur, P.S. Kamtaul, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Education Department, Bihar, Patna.
2. The Secretary, Bihar School Examination Board, Bihar, Patna.
3. The Chairman, Bihar School Examination Board, Bihar, Patna.
4. The Head Administrative Officer, Bihar School Examination Board, Bihar, Patna.
5. The District Magistrate, Darbhanga.
6. The District Education Officer, Darbhanga.
7. The Head Master, C.K. N. High School, Intermediate Sighwara, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Devendra Kumar, Adv
For the State	:	Mr. Priyadarshi Matri Sharan (AC to Aag15)
For the B.S.E.B.	:	Mr. Ajay, Adv

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV

Date : 27-08-2024

Heard learned counsels for the parties.

2. Petitioner has approached this Court for setting aside the Memo No. D P-2421/Patna, dated 16.01.2019, issued by the Secretary, Bihar School Examination Council/respondent no.2, whereby and whereunder in compliance of the order passed by this Court in C.W.J.C. No.17037 of 2017 dated 19.02.2018, the grievance raised by the petitioner in earlier writ petition as well in his representation had been rejected, holding that the certificate issued to the petitioner under Roll Code-6102 and



Roll No.523 is valid.

2. The short fact of this case is that petitioner has appeared in the Matric examination bearing Roll code-6102, Roll no. 520 and Registration no. 0611040/5719. He passed the Matriculation examination in 2nd class. The provisional certificate was issued to the petitioner in which his roll no. was wrongly written as Roll No.523 instead of Roll No. 520. Petitioner had appeared in the annual examination of Bihar School examination Board, Patna, Bihar in the year 1990. In the meantime, he was appointed as a teacher in July 2014 but due to the fault of the respondents, no payment (Manday) was made to the petitioner (Annexure-2 of the writ application).

3. It is submitted by the learned counsel for the petitioner that the petitioner has filed representation before the Secretary, Bihar School Examination Board, Patna, Bihar on 06.08.2015 for the redressal of his grievances in spite of that the respondent authorities did not care about the representation of the petitioner and has been sitting tight over the chair (Annexure-3).

4. Petitioner again filed a representation before the Secretary, Bihar School Examination Board, Patna, Bihar on 21.07.2017 for issuance of correct provisional certificate in which both admit card and Marks sheet was correct but roll no.



was wrongly written as 523 instead of 520.

5. In the meantime, petitioner was appointed as Primary teacher vide Memo no.07/2374 dated 23.07.2014, issued by Panchyat Secretary, Sirshi. Thereafter, petitioner gave his contribution on 14.08.2014, before the Headmaster of the primary school, Sebaha, Dhabi tola, Sirashi. Since a long time petitioner has performed his duties but due to laches on the part of the concerned respondent's department, petitioner suffered a great loss due to non payment of Manday.

6. He further submitted that petitioner filed a writ application bearing C.W.J.C No. 17037 of 2017 for redressal of his grievances before this Court and accordingly, this Court heard that case and gave direction to the concerned respondent vide order dated 19.02.2018 to consider the petitioner's grievance and if found necessary then issue certificate with corrected roll number within a period of six week from the date of receipt/production of a copy of the order of C.W.J.C No. 17037/2017 (Annexure-6 of the writ application).

7. It is further submitted that the authority concerned did not even followed the order dated 19.02.2018. Therefore, petitioner filed another application bearing MJC No. 2442/2018 before this Court. In the meantime, the Secretary, Bihar school



Examination council, Patna passed an erroneous order against the petitioner in order to harass him.

8. It is submitted that the respondents have only passed an order against the petitioner due to vexatious attitude. The authority concerned could have issued the original certificate but they made problems and alleged that petitioner Roll no.523 is false. The petitioner has been a regular student of Matriculation in Session 1990, Roll Code 6102 and Roll No. 520, which is also apparent from the registration records, marks sheet as well as Admit card.

9. He further submitted that from perusal of the certified copy of registration year 1982 in C.K.N.High School, (10+2), Singhwara (Darbhanga). It appears that Santosh Kumar Jha, son of Hare Ram Jha, date of birth on 03.01.1977, registration no. 0611040/5719 on 06.04.1990 is at serial no. 14, but the councils alleged that as per the records Santosh Kumar Jha son of Ganesh Jha, date of birth 23.02.1974 and his registration no. 0611040/5733 is at serial no.28. These are very different things. So, the allegation against the petitioner is false and concocted.

10. That it is submitted that the authority concerned have issued the admit card of matriculation and from perusal of the same it appears that the date of birth of the petitioner is



03.01.1977 and his registration no. 0611040/5719 and his Roll No. is 520 and Roll Code is 6102 which is correct. The authority have issued the correct marks sheets of the petitioner as the roll number and roll code of the petitioner is tallying with the admit card by which it could be presumed that the mark sheets as well as the registration register of the petitioner is correct and there he got total marks of 466 in matriculation is also correct.

11. He further submitted that as per the registration register of the year 1989, Santosh Kumar Jha son of Ganesh Jha, date of birth 23.02.1974, registration No. 0611040/5733 and registration date 08-04-1990 was present at serial No. 28, in comparison with the petitioner's registration number, registration date, date of birth and his father's name also differs then how could it be said that the Roll No. 523 is correct instead of Roll No. 520 is correct.

12. A supplementary affidavit is filed on behalf of the petitioner in which it is stated that petitioner has filed photocopy of marks sheet of annual examination of Matriculation of 1990, which has been lost. Therefore, the petitioner has taken duplicate marks sheet from Bihar School Examination Board, Patna (Annexure-10 of the supplementary affidavit). It is further submitted that the petitioner has passed Intermediate from Bihar



Intermediate Education Council, Patna in the year 1992.

13. A counter affidavit is filed on behalf of the respondent nos.2, 3 and 4, in which it is stated that the order dated 16.01.2019 suffers from no infirmity as the same had been passed after a detailed consideration holding that in fact the petitioner under Roll code 6102, Roll no. 523 securing 438 marks had passed the Annual Secondary Examination and same finds support from the entire record in Original Tabulation Register (OTR) in which name of the petitioner with father's name Hare Ram Jha with date of birth 03.01.1977.

14. He further submitted that the details provided by the petitioner has been verified from the official record of the Board i.e. Original Tabulation Register (OTR) and it transpired that in the year 1990, two students of the same name Santosh Kumar Jha had appeared in examination having their Roll No. as 520 and 523. As per Roll no. 520, the name of the student was mentioned as Santosh Kumar Jha, Son of Shri Ganesh Jha, with date of birth as 23.02.1974 and marks obtained 466. Whereas against Roll No. 523 the name of the student was mentioned as Santosh Kumar Jha, (Petitioner) Son of Hare Ram Jha with date of birth 03.01.1977 and marks obtained 438 (which tally with the petitioner).



15. He further submitted that as per the Office records with regard to the issued involved that earlier information was received from the Principal, Marwadi Mahavidyalaya, Darbhanga vide Memo No.- MEX/42/2015 dated 17.08.2015 stating that the admit card of the petitioner had been kept stored at the College in question and as per the same, petitioner had been a regular student/examinee under Roll Code-6102 and Roll No.520.

16. The Roll Code-6102 had been allocated to C.K.N. High School, Singhwara, through which the petitioner claims to have appeared in the Annual Secondary Examination, 1990. Moreover, through the said letter dated 17.08.2015, it had also been stated that the records of the college in question had been damaged due to flood in the year 2004.

17. He further submitted that the information so given with regard to the petitioner by the concerned college through aforesaid letter dated 17.08.2015 is simply to be disbelieved for the reason that once it had been said by the concerned college that its record had been destroyed due to flood, in such a situation, any statement on the basis of records available at the college for the period prior to 2004 is simply not creditable.

18. Lastly, he submitted that the petitioner failed to give any



explanation about delay of 25 years in approaching this Court. And it is also well- settled principle of law that '**delay defeats equity**'. Hon'ble Supreme Court in case of **Union of India vs Kishorilal Bablani (1999) 1 SCC 729** *observed that delay defeats equity is a well- known principle of jurisprudence. Delay of 15 and 20 years cannot be overlooked when an application before the court equity.* Apex Court in another case of **Mrinmoy Maity vs Chhanda Koley and Others, 2024 SCC Online SC 551** observed that delay and laches as prominent factors while deciding petitions under Article 226 of the Constitution of India. The Supreme Court held that the High Court ought not to grant extraordinary relief to a petitioner who approaches the writ court belatedly or in other words sleeps over his rights for a considerable period to time.

19. That the petitioner signature on his admit card (which he claims to be true) is similar to serial no. 28 in registration record and he claim himself at serial no. 14 (Annexure 8) which itself create doubt about the authentication of original certificate upon which petitioner is relying and at the same time date of birth of the petitioner on his Aadhar card supplied in writ petition is 01.01.1978 and subsequently to tally his date of birth with his other documents, petitioner made change to his date of birth as



03.01.1977 in his Aadhar card which can be seen at page no. 4 of the Supplementary Affidavit.

20. That from all the above submission, there is serious factual disputes and present case is fit case for trial and disputed question of fact cannot be determined in a writ petition under Article 226 of Constitution of India.

21. I have heard the arguments advanced on behalf of the parties. It is an admitted fact that the petitioner has passed his matriculation examination in the year 1990 but he filed application for correction of his certificate in the year 2015 i.e. after a long delay of about 25 years. Considering the delay in filing of the application, I am not inclined to grant any relief to the petitioner.

22. Accordingly, this writ application is dismissed.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	08.08.2024
Uploading Date	29.08.2024
Transmission Date	NA

